

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA, ex rel. RODRIGUEZ PLUMBING CONTRACTORS, INC. Plaintiffs v. OAC ACTION CONSTRUCTION, CORP.; ALLIED WORLD INSURANCE COMPANY Defendants	CIVIL NO. BOND STATUTE (FORMERLY KNOWN AS THE MILLER ACT); BOND CLAIM; COLLECTION OF MONIES OWED
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COMPLAINT UNDER THE PROVISIONS OF THE BONDS STATUTE

INTRODUCTION

1. This is an action brought by Relator, Rodriguez Plumbing Contractors, Inc. ("Rodriguez Plumbing"), on behalf of the United States of America, to recover monies owed for materials furnished in a contract for a federal construction project in Puerto Rico for which a payment bond was issued, against Defendants pursuant to the Bonds Statute.

JURISDICTION AND VENUE

2. This Honorable Court has jurisdiction to entertain this Complaint pursuant to 28 U.S.C. §1331 and 40 U.S.C. §3133(b)(1)- the Bonds Statute.

3. Venue is proper in this District pursuant to 28 U.S.C. §1391(a) and 40 U.S.C. §3133(b)(3).

THE PARTIES

4. Rodriguez Plumbing is a corporation duly organized and existing under the laws of the Commonwealth of Puerto Rico, with offices and mailing address at Po Box 71325 #154, San Juan, PR 00936; telephone number (787) 793-4922.

5. Upon information and belief, co-defendant OAC Action Construction, Corp. ("OAC") is a corporation duly organized and existing under the laws of the State of Florida, authorized to do business in Puerto Rico, with offices and mailing address at 12540 SW, 130th Street, Suite 3, Miami, FL 33816.

6. OAC is the principal contractor for the federal construction project of the Department of the Army, for the Design and Construction of an apparatus Building 399 at Fort Buchanan, San Juan, Puerto Rico; contracts number W912QR-17-C-0012 (hereinafter "the Project").

7. Upon information and belief, co-defendant Allied World Insurance Company ("Allied") is a surety company duly organized and existing under the laws of the State of New York, with offices and mailing address at 199 Water Street, New York, NY 10038. Allied is OAC's surety company for the referenced construction project, issuing the Payment Bond No. 5001-4495.

STATEMENT OF FACTS

8. Rodriguez Plumbing furnished labor and materials for OAC as the Project's principal contractor between June 24, 2019 and October 1, 2020, in the total amount of \$309,317.00 as evidenced by certifications one (1) to eleven (11), timely sent to OAC for payment and which as today, notwithstanding all collection efforts against it, OAC still owes the sum of \$47,015.31.

9. On May 27, 2021 Rodriguez Plumbing sent to OAC and Allied, as the surety company for this Project, a Notice of Nonpayment, by certified mail, in accordance to 40 U.S.C. §3133, procuring payment of the outstanding balance, which is liquid, due and owed. OAC and Allied failed to answer such notice, nor did they made any payment regarding such claim.

10. Allied's payment bond insures payment of the materials furnished by Rodriguez Plumbing for the Project.

11. Rodriguez Plumbing files this Complaint within the term provided for in 40 U.S.C. §3133(b)(4), having not yet elapsed on (1) year after the day on which the last of the material was supplied by Rodriguez Plumbing to OAC for the Project.

PRAYER FOR RELIEF

WHEREFORE, Rodriguez Plumbing, as Relator, requests that judgment be entered against Defendants, ordering that:

- a. Defendant pay an amount of \$47,015.31, plus the legal interest accrued from October 2020 up to the date the payment in full of the debt is made, the costs of litigation and a reasonable amount for attorney's fees; and
- b. The United States and Relator be granted all such other relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this date, I electronically filed the foregoing Complaint with the Clerk of the Court using the CM/ECF system. Service of summons will be performed in accordance with the applicable Federal Rules of Civil Procedure.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico on July 13th, 2021.

S/ José O. Ramos González

José O. Ramos González

USDCPR Bar No. 201304

RAMOS GONZALEZ & TOYOS OLASCOAGA, CSP

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